

# THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY

GORDON E. NEUENSCHWANDER  
VICE PRESIDENT & GENERAL COUNSEL

G. EDWARD YURCON  
ASSISTANT GENERAL COUNSEL

RICHARD A. PORACH  
ATTORNEY

June 24, 1977

7-175A058

324 P&LE TERMINAL BUILDING  
PITTSBURGH, PA. 15219

PHONE (412) 261-3201

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JUN 24 1 34 PM '77  
C.C.  
OPERATION BR.

Honorable H. G. Homme, Jr.  
Acting Secretary  
Interstate Commerce Commission  
12th and Constitution Ave., N.W.  
Washington, D. C. 20423

RECORDATION NO. 8862 Filed & Recorded

JUN 24 1977 - 1 PM

Dear Sir:

INTERSTATE COMMERCE COMMISSION

Enclosed for filing with the Commission pursuant to Section 20c of the Interstate Commerce Act is the original document described below, together with three additional counterparts. The document is:

Agreement, dated as of June 15, 1977, between General Motors Corporation (Electro-Motive Division) and The Pittsburgh and Lake Erie Railroad Company, providing for temporary use of six (6) GP38-2 Diesel Electric Locomotives (P&LE Nos. 2051-2056, inclusive).

In compliance with the Commission's rules and regulations, you are advised as follows:

LESSOR: General Motors Corporation  
Electro-Motive Division  
LaGrange, Illinois 60525

LESSEE: The Pittsburgh and Lake Erie Railroad Company  
P&LE Terminal Building  
Pittsburgh, Pennsylvania 15219

Following is a general description of the railroad equipment covered by said document:

<u>No. of Units</u>	<u>Description</u>	<u>Identifying Road Nos.</u>
6	2,000 H.P., Model GP38-2 Diesel Electric Locomotives	P&LE 2051-2056 Inclusive

Honorable H. G. Homme, Jr.

-2-

June 24, 1977

Also enclosed is Pittsburgh and Lake Erie Railroad Company voucher in the amount of \$50.00, payable to the Treasurer of the United States, to cover the recordation fee prescribed by the Commission in its rules and regulations.

Please acknowledge receipt at your earliest convenience by stamping and returning to me the original document and one counterpart.

Very truly yours,

*Gordon E. Henschel*

encs.

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

**6/24/77**

**OFFICE OF THE SECRETARY**

**Gordon E. Neuenschwander**  
**Vice Pres. & General Counsel**  
**The Pittsburgh & Lake Erie RR. Co.**  
**324 P&LE Terminal Building**  
**Pittsburgh, PA. 15219**

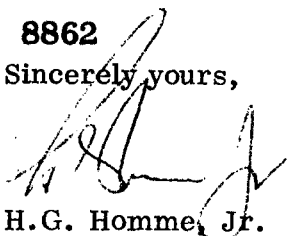
Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the  
provisions of Section 20(c) of the Interstate Commerce Act,  
49 U.S.C. 20(c), on **6/24/77** at **1:35pm**,  
and assigned recordation number(s)

**8862**

Sincerely yours,

  
**H.G. Homme, Jr.**  
**Acting Secretary**

Enclosure(s)

SE-30-T  
(6/77)

JUN 24 1977-1 13 PM

INTERSTATE COMMERCE COMMISSION

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AGREEMENT

Dated as of June 15, 1977

Between

GENERAL MOTORS CORPORATION  
(Electro-Motive Division)

and

THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY

---

Covering

Six (6) Diesel Electric Locomotives

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THIS AGREEMENT, dated as of June 15, 1977, by and between  
GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation  
(Manufacturer), and THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, a Delaware  
corporation (P&LE);

W I T N E S S E T H :

The Manufacturer and P&LE heretofore entered into Locomotive Proposal No. 766073 and Purchase Order 12-25-4, dated December 13, 1976 and accepted by P&LE on December 13, 1976 (copies of which Locomotive Proposal are made a part hereof by reference), whereunder the Manufacturer agreed to construct and deliver to P&LE, and P&LE agreed to accept and pay for the following locomotives:

- (6) Six 2000 HP Model GP38-2 diesel electric locomotives  
to bear P&LE road numbers 2051 - 2056, inclusive;

("Locomotives").

Delivery of the Locomotives by the Manufacturer to P&LE is scheduled to begin on or about June 20, 1977. However, inasmuch as P&LE has not as yet consummated financing arrangements (pursuant to a Conditional Sale Agreement or otherwise), it is not in a position to accept delivery of and pay for the Locomotives under the terms of the Locomotive Proposal at this time. P&LE represents that such financing arrangements will be consummated, however, on or before July 29, 1977. P&LE (in order that it may use the Locomotives pending completion of the above financing arrangements) has arranged with the Manufacturer to give it temporary custody and possession of

the Locomotives on their completion, solely as a bailee of the Locomotives, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby delivers to P&LE and P&LE hereby accepts from the Manufacturer the Locomotives as of the date each of them is delivered to P&LE at McCook, Illinois, or other such place as may be specified by P&LE, for the period ending on the earlier of July 29, 1977 or the date of consummation of the above financing arrangements. At such time this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Title to the Locomotives shall remain in the Manufacturer and P&LE's right and interest therein is and shall be solely that of possession, custody, and use as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. P&LE, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, P&LE shall do such other acts as may be required by law or reasonably requested by the Manufacturer for the protection of the Manufacturer's title to and interest in the Locomotives.

P&LE agrees that it will permit no liens of any kind to attach to the Locomotives, and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses, or liabilities of whatsoever kind; and
- (b) pay any and all taxes, fines, charges, and penalties that may accrue or be assessed or imposed upon the Locomotives of the

Manufacturer because of its ownership or because of the use, operation, management, or handling of the Locomotives by P&LE during the term of this Agreement.

P&LE's obligations contained in this paragraph shall survive the termination by mutual agreement or otherwise of this Agreement.

P&LE will, at its own expense, keep and maintain the Locomotives in good order and running condition, and will, at its option, repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Locomotives which may be damaged or destroyed by any cause during the term of this Agreement.

Prior to the delivery of each Locomotive to P&LE under this Agreement, it will be numbered with a road number as hereinbefore indicated, and there shall be plainly, distinctly, permanently, and conspicuously marked upon each side of each Locomotive, in contemplation of the financing heretofore referred to, the following legend in letters not less than one inch in height:

"OWNED BY A BANK OR TRUST COMPANY UNDER  
A SECURITY AGREEMENT FILED UNDER THE  
INTERSTATE COMMERCE ACT, SECTION 20c"

P&LE hereby agrees to indemnify the Manufacturer against any liability, loss, or expense incurred by it as a result of the placing of the aforementioned markings on the Locomotives.

In case, during the effective period of this Agreement, such markings shall at any time be removed, defaced, or destroyed on any Locomotive, P&LE shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits, or advantages of the Manufacturer, including the right to receive the purchase price of the Locomotives

as provided in the Locomotive Proposal , may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time; provided, however, that no such assignment shall subject any such assignee to any of the Manufacturer's warranties, indemnities, or any other obligations contained in this Agreement or in the Locomotive Proposal relating to the Locomotives. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the Locomotive Proposal , and P&LE receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by P&LE under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in a form satisfactory to P&LE.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the Locomotive Proposal , the rights of such assignee to such payments as may be assigned, together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, setoff, counterclaim, or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Locomotives, nor subject to any defense, setoff, counterclaim, or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to P&LE by the Manufacturer. Any and all of such obligations howsoever arising shall be and will remain enforceable by P&LE, its successors and assigns, only against the Manufacturer and its successors and assigns (other than assignees as such of rights, benefits, or advantages assigned pursuant to this Agreement).



P&LE agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to P&LE of the Locomotives, as contemplated by this Agreement, shall not relieve P&LE of its obligations to accept, take and pay for the Locomotives in accordance with the terms of the Locomotive Proposal, or impair any of the Manufacturer's rights under the Locomotive Proposal.

GENERAL MOTORS CORPORATION  
(Electro-Motive Division)

Corporate Seal

By

R. K. Haglund  
Vice President

ATTEST:

J. H. Thomas  
Assistant Secretary

THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY

Corporate Seal

By

H. B. Allyn  
President

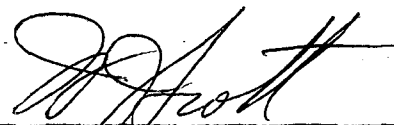
ATTEST:

Edward C. Cavan  
Assistant Secretary

STATE OF ILLINOIS    )  
                          ) SS:  
COUNTY OF COOK        )

On this 23rd day of June, 1977, before me personally appeared P. K. Hoglund, to me personally known, who being by me duly sworn, says that he is a Vice President of General Motors Corporation (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

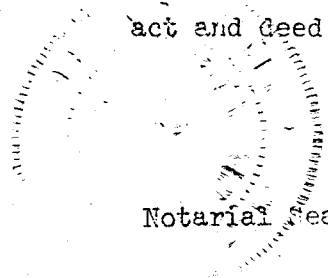
Notarial Seal


  
\_\_\_\_\_  
Notary Public  
My Commission Expires January 17, 1979

STATE OF PENNSYLVANIA    )  
                          ) SS:  
COUNTY OF ALLEGHENY     )

On this 24th day of June, 1977, before me personally appeared H.G. Allen, Jr., to me personally known, who, being by me duly sworn, says that he is President of the Pittsburgh and Lake Erie Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its President and Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notarial Seal

  
DONNA R. DINEEN, Notary Public  
Pittsburgh, Allegheny County, PA  
My Commission Expires February 3, 1980

  
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Notary Public, Allegheny County,  
My Commission Expires Feb. 3, 1980